IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6423 of 2007()

CRIME NO.478/07 OF TRAFFIC POLICE STATION, KOLLAM.

PETITIONER/ACCUSED

VINEETH.S., S/O.SATHEESAN PILLAI,
VAYALIL PUTHEN VEEDU, PANNIYAM,
UMAYANALLOOR P.O., THAZHUTHALA VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, TRAFFIC POLICE
STATION, KOLLAM DISTRICT THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6423 OF 2007

Dated this the 23rd day of October, 2007

ORDER

Application for anticipatory bail. The petitioners faces allegations for offences punishable under Secs.279 and 304 of the IPC. The crux of the allegations against the petitioner is that the petitioner drove a private bus along the public road in such grossly irresponsible manner that he fatally knocked down a motor-cyclist who was proceeding in front.

2. It is the case of the prosecution that the offence alleged falls under Sec.304 of the IPC considering the total lack of care in spite of knowledge of the possibility of such an accident and death resulting therefrom.

3. The alleged incident took place on 4/7/07. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

4. The learned counsel for the petitioner submits that, at worst, only the offence under Sec.304A of the IPC will be revealed and that the allegation under Sec.304 of the IPC has been included only to ensure that the petitioner is denied bail for as long period as possible.

5. The learned Public Prosecutor opposes the application. Considering the grossly irresponsible manner in which the vehicle was being driven, the allegation under Sec.304 of the IPC has been included. The petitioner may be directed to surrender and seek regular bail in the ordinary course. There are no circumstances justifying the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C., submits the learned Public Prosecutor.

6. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I am unable to perceive any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must surrender

before the Investigating Officer or the learned Magistrate having jurisdiction and then seen regular bail in the ordinary course.

7. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge